

AMENDED IN SENATE MARCH 29, 2001

SENATE BILL

No. 771

**Introduced by Committee on Business and Professions (Senators
Figueroa (Chair), Machado, Morrow, Murray, O'Connell, and
Polanco)**

February 23, 2001

An act to amend Sections 7006, 7026, 7027.3, 7028.7, 7028.13, 7059.1, 7071.11, 7074, 7091, 7112, 7153, 17910.5, 17913, 17917, 17923, 22355 and 22453.1 of, and to add Sections ~~5080.5~~, 5536.26 and, 7112.1, *and* 7135.2 to the Business and Professions Code, relating to the regulation of businesses.

LEGISLATIVE COUNSEL'S DIGEST

SB 771, as amended, ~~Senate~~ Committee on Business and Professions. Regulation of businesses.

(1) ~~Existing law authorizes the California Board of Accountancy to regulate the practice of accounting. This includes taking applications from candidates and issuing certificates and permits to practice public accounting to individuals that meet the requirements established by the board.~~

~~This bill would prohibit the board from requiring an applicant to provide his or her social security number to the board.~~

(2) ~~Existing law, the Architects Practice Act, provides that architects may plan the sites and designs of buildings and structures, and that professional services include the compliance with applicable codes and regulations, the governmental review process and contract administration.~~

This bill would provide that the use of the words "certify" or "certification" by a licensed architect would constitute a professional

opinion regarding the facts which are the subject of the certification and would not be considered a warranty or guarantee.

(3)

(2) Existing law, the Contractors' State ~~Licensing Board License~~ Law, authorizes the ~~board~~ Contractors' State License Board to conduct all functions and duties relating to the licensing, regulation, and discipline of licensees *and makes certain acts a crime, including using an incorrect contractor's license number with the intent to defraud*. The registrar is the executive officer who carries out the board's administrative duties and tasks delegated by the board *and is authorized to issue a citation for a violation of specified provisions that may result in the assessment of a civil penalty*. Existing law specifies when the board will conduct its meetings, what activities contractors may perform, what criminal penalties exist when a licensed or unlicensed person intentionally uses a contractors license number that does not belong to him or her. Existing law provides how much time the registrar has to collect civil penalties from nonlicensee citations, provides licensing requirements for fictitious name usage, provides timeframes for filing claims against a licensee's cash deposit, sets requirements regarding the licensing examination process, and addresses misrepresentation and fraud concerning license application and renewal. *Existing law requires that these civil penalties and other fees that are collected be deposited in the Contractors' License Fund which is continuously appropriated for purposes of the Contractors' State License Law.*

This bill would authorize the board to meet once each quarter, allow contractors to deal with underground storage tanks, allow the registrar to issue citations to unlicensed individuals and unregistered salespersons the registrar believes violated the Contractors' State License Law *and to persons who use an incorrect contractor's license number to defraud others*, and would also authorize the registrar to use collection agencies to collect civil penalties. ~~This~~ *The bill would require that a civil penalty collected pursuant to this citation process be deposited into a separate account within the Contractors' License Fund for expenditure by the board upon appropriation by the Legislature.*

This bill would also provide that a licensee could only conduct business under one name per license, extend the time in which a claim could be made against a licensee's cash deposit to 3 years after the expiration of the license, revise the licensing examination procedures, and expand the grounds for disciplinary action during the license

application and renewal process concerning misrepresentations or omissions made on the application or renewal form.

~~(4)~~

(3) Existing law does not allow the use of a fictitious business name that includes the words or abbreviations “Company,” “Limited,” “Co.,” or “Ltd.” if a business is not a limited liability company.

This bill would allow the use of a fictitious business name that includes the words or abbreviations “Company,” “Limited,” “Co.,” or “Ltd.” if that use does not imply that the business is a limited liability company.

Existing law requires that a fictitious business name statement contain the name or names of the person or persons doing business, the name of the business, and when the business began operating under the fictitious name. The form must be signed by the applicant or applicants and filed with the county clerk where the business is located.

This bill would require the applicant or applicants to declare under penalty of perjury that the contents of the fictitious business name statement are true and correct. Since the filing of a false statement would constitute a crime, the bill would impose a state-mandated local program.

Existing law requires the publication of a refiled fictitious business name statement when the prior statement has expired unless there are no changes in the information in the statement.

This bill would provide that the exception from republication of a fictitious business name statement applies only if the statement is refiled within 40 days of the expiration date of the previous statement. This bill would also eliminate an exception from publication of a statement of withdrawal from a partnership operating under a fictitious business name.

~~(5)~~

(4) Existing law requires that county clerks issue permanent identification cards with a photograph to each process server and register professional photocopiers.

This bill would require each county clerk to issue temporary identification cards, valid for 120 days, to applicants while waiting for background checks from the Federal Bureau of Investigation and the Department of Justice. By requiring county clerks to issue temporary identification cards, this bill would impose a state-mandated local program. This bill would correct an erroneous section reference in a provision regulating the fee payable in connection with the filing of an



application with a county clerk for registration as a professional photocopier.

~~(6)~~

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 5080.5 is added to the Business and~~
2 ~~Professions Code, to read:~~

3 ~~5080.5. Notwithstanding any other provision of law, an~~
4 ~~applicant for licensure with the California Board of Accountancy~~
5 ~~shall not be required to provide the board his or her federal social~~
6 ~~security number.~~

7 ~~SEC. 2.~~

8 *SECTION 1.* Section 5536.26 is added to the Business and
9 Professions Code, to read:

10 5536.26. The use of the words “certify” or “certification” by
11 a licensed architect in the practice of architecture constitutes an
12 expression of professional opinion regarding those facts or
13 findings that are the subject of the certification, and does not
14 constitute a warranty or guarantee, either expressed or implied.

15 ~~SEC. 3.~~

16 *SEC. 2.* Section 7006 of the Business and Professions Code is
17 amended to read:

1 7006. The board shall meet at least once each calendar quarter
2 for the purpose of transacting business as may properly come
3 before it.

4 Special meetings of the board may be held at times as the board
5 may provide in its bylaws. Four members of the board may call a
6 special meeting at any time.

7 ~~SEC. 4.~~

8 *SEC. 3.* Section 7026 of the Business and Professions Code is
9 amended to read:

10 7026. “Contractor,” for the purposes of this chapter, is
11 synonymous with “builder” and, within the meaning of this
12 chapter, a contractor is any person, who undertakes to or offers to
13 undertake to, or purports to have the capacity to undertake to, or
14 submits a bid to, or does himself or herself or by or through others,
15 construct, alter, repair, add to, subtract from, improve, move,
16 wreck or demolish any building, highway, road, parking facility,
17 railroad, excavation or other structure, project, development or
18 improvement, or to do any part thereof, including the erection of
19 scaffolding or other structures or works in connection therewith,
20 or the cleaning of grounds or structures in connection therewith,
21 or the preparation and removal of roadway construction zones,
22 lane closures, flagging, or traffic diversions, or the installation,
23 repair, maintenance, or calibration of monitoring equipment for
24 underground storage tanks, and whether or not the performance of
25 work herein described involves the addition to, or fabrication into,
26 any structure, project, development or improvement herein
27 described of any material or article of merchandise. “Contractor”
28 includes subcontractor and specialty contractor. “Roadway”
29 includes, but is not limited to, public or city streets, highways, or
30 any public conveyance.

31 ~~SEC. 5.~~

32 *SEC. 4.* Section 7027.3 of the Business and Professions Code
33 is amended to read:

34 7027.3. Any person, licensed or unlicensed, who willfully
35 and intentionally uses, with intent to defraud, a contractor’s license
36 number that does not correspond to the number on a currently valid
37 contractor’s license held by that person, is punishable by a fine not
38 exceeding ten thousand dollars (\$10,000), or by imprisonment in
39 state prison, or in county jail for not more than one year, or by both
40 the fine and imprisonment. The penalty provided by this section

1 is cumulative to the penalties available under all other laws of this
2 state. If, upon investigation, the registrar has probable cause to
3 believe that an unlicensed individual is in violation of this section,
4 the registrar may issue a citation pursuant to Section 7028.7.

5 ~~SEC. 6.~~

6 *SEC. 5.* Section 7028.7 of the Business and Professions Code
7 is amended to read:

8 7028.7. If upon inspection or investigation, either upon
9 complaint or otherwise, the registrar has probable cause to believe
10 that a person is acting in the capacity of or engaging in the business
11 of a contractor or salesperson within this state without having a
12 license or registration in good standing to so act or engage, and the
13 person is not otherwise exempted from this chapter, the registrar
14 shall issue a citation to that person. Within 72 hours of receiving
15 notice that a public entity is intending to award, or has awarded,
16 a contract to an unlicensed contractor, the registrar shall give
17 written notice to the public entity that a citation may be issued if
18 a contract is awarded to an unlicensed contractor. If after receiving
19 the written notice from the registrar the public entity has awarded
20 or awards the contract to an unlicensed contractor, the registrar
21 may issue a citation to the responsible officer or employee of the
22 public entity as specified in Section 7028.15. Each citation shall
23 be in writing and shall describe with particularity the basis of the
24 citation. Each citation shall contain an order of abatement and an
25 assessment of a civil penalty in an amount not less than two
26 hundred dollars (\$200) nor more than fifteen thousand dollars
27 (\$15,000). With the approval of the Contractors' State License
28 Board the registrar shall prescribe procedures for the issuance of
29 a citation under this section. The Contractors' State License Board
30 shall adopt regulations covering the assessment of a civil penalty
31 that shall give due consideration to the gravity of the violation, and
32 any history of previous violations. The sanctions authorized under
33 this section shall be separate from, and in addition to, all other
34 remedies either civil or criminal.

35 ~~SEC. 7.~~

36 *SEC. 6.* Section 7028.13 of the Business and Professions
37 Code is amended to read:

38 7028.13. (a) After the exhaustion of the review procedures
39 provided for in Sections 7028.10 to 7028.12, inclusive, the
40 registrar may apply to the appropriate superior court for a

1 judgment in the amount of the civil penalty and an order
2 compelling the cited person to comply with the order of abatement.
3 The application, which shall include a certified copy of the final
4 order of the registrar, shall constitute a sufficient showing to
5 warrant the issuance of the judgment and order. If the cited person
6 did not appeal the citation, a certified copy of the citation and proof
7 of service, and a certification that the person cited is not or was not
8 a licensed contractor or applicant for a license at the time of
9 issuance of the citation, shall constitute a sufficient showing to
10 warrant the issuance of the judgment and order.

11 (b) Notwithstanding any other provision of law, the registrar
12 may delegate the collection of the civil penalty for any citation
13 issued to any person or entity legally authorized to engage in
14 collections. Costs of collection shall be borne by the person cited.
15 The registrar shall not delegate the authority to enforce the order
16 of abatement.

17 (c) Notwithstanding any other provision of law, the registrar
18 shall have the authority to assign the rights to the civil penalty, or
19 a portion thereof, for adequate consideration. The assignee and the
20 registrar shall have all the rights afforded under the ordinary laws
21 of assignment of rights and delegation of duties. The registrar shall
22 not assign the order of abatement. The assignee may apply to the
23 appropriate superior court for a judgment based upon the assigned
24 rights upon the same evidentiary showing as set forth in
25 subdivision (a).

26 (d) Notwithstanding any other provision of law, including
27 subdivisions (1) and (2) of Section 340 of the Code of Civil
28 Procedure, the registrar or his or her designee or assignee shall
29 have four years from the date of the final order to collect civil
30 penalties except that the registrar or his or her designee or assignee
31 shall have 10 years from the date of the judgment to enforce civil
32 penalties on citations that have been converted to judgments
33 through the process described in subdivisions (a) and (c).

34 ~~SEC. 8.~~

35 *SEC. 7.* Section 7059.1 of the Business and Professions Code
36 is amended to read:

37 7059.1. (a) A licensee shall not use any business name that
38 indicates the licensee is qualified to perform work in
39 classifications other than those issued for that license, or any

1 business name that is incompatible with the type of business entity
2 licensed.

3 (b) A licensee shall not conduct business under more than one
4 name for each license. Nothing in this section shall prevent a
5 licensee from obtaining a business name change as otherwise
6 provided by this chapter.

7 ~~SEC. 9.~~

8 *SEC. 8.* Section 7071.11 of the Business and Professions
9 Code is amended to read:

10 7071.11. (a) A copy of the complaint in a civil action
11 commenced by a person claiming against a bond required by this
12 article shall be served by registered or certified mail upon the
13 registrar by the clerk of the court at the time the action is
14 commenced and the registrar shall maintain a record, available for
15 public inspection, of all actions so commenced. The aggregate
16 liability of a surety on a claim for wages and fringe benefits
17 brought against any bond required by this article, other than a bond
18 required by Section 7071.8, shall not exceed the sum of four
19 thousand dollars (\$4,000). If any bond which may be required is
20 insufficient to pay all claims in full, the sum of the bond shall be
21 distributed to all claimants in proportion to the amount of their
22 respective claims. Any action, other than an action to recover
23 wages or fringe benefits, against a contractor's bond or a bond of
24 a qualifying individual filed by an active licensee shall be brought
25 within two years after the expiration of the license period during
26 which the act or omission occurred, or within two years of the date
27 the license of the active licensee was inactivated, canceled, or
28 revoked by the board, whichever first occurs. Any action, other
29 than an action to recover wages or fringe benefits, against a
30 disciplinary bond filed by an active licensee pursuant to Section
31 7071.8 shall be brought within two years after the expiration of the
32 license period during which the act or omission occurred, or within
33 two years of the date the license of the active licensee was
34 inactivated, canceled, or revoked by the board, or within two years
35 after the last date for which a disciplinary bond filed pursuant to
36 Section 7071.8 was required, whichever date is first. A claim to
37 recover wages or fringe benefits shall be brought within six
38 months from the date that the wage or fringe benefit delinquencies
39 were discovered, but in no event shall a civil action thereon be

1 brought later than two years from the date the wage or fringe
2 benefit contributions were due.

3 (b) When the surety makes payment on any claim against a
4 bond required by this article, whether or not payment is made
5 through a court action or otherwise, the surety shall, within 30 days
6 of the payment, notify the registrar. The notice shall contain, on a
7 form prescribed by the registrar, the name and license number of
8 the contractor, the surety bond number, the amount of payment, the
9 statutory basis upon which the claim is made, and the names of the
10 person or persons to whom payments are made.

11 (c) Any judgment or admitted claim against, or good faith
12 payment from, a bond required by this article shall constitute
13 grounds for disciplinary action against the licensee, except in those
14 cases of good faith payment where the licensee has, in writing,
15 timely instructed the surety not to make payment from the bond on
16 his or her account, upon the specific grounds that (1) the claim is
17 opposed by the licensee, and (2) the licensee has, in writing,
18 previously directed to the surety a specific and reasonable basis for
19 his or her opposition to payment. The license may not be reissued
20 or reinstated while any judgment or admitted claim in excess of the
21 amount of the bond remains unsatisfied. Further, the license may
22 not be reissued or reinstated while any surety remains
23 unreimbursed for loss and expense sustained on any bond issued
24 for the licensee or for any entity of which any officer, director,
25 member, partner, or qualifying person was an officer, director,
26 member, partner, or qualifying person of the licensee while the
27 licensee was subject to disciplinary action under this section. The
28 board shall require the licensee to file a new bond in an amount as
29 required pursuant to Section 7071.8.

30 (d) Legal fees may not be charged against the bond by the
31 board.

32 (e) In any case in which a claim is filed against a deposit given
33 in lieu of a bond by any employee or by an employee organization
34 on behalf of an employee, concerning wages or fringe benefits
35 based upon the employee's employment, claims for the
36 nonpayment shall be filed with the Labor Commissioner. The
37 Labor Commissioner shall, pursuant to the authority vested by
38 Section 96.5 of the Labor Code, conduct hearings to determine
39 whether or not the wages or fringe benefits should be paid to the
40 complainant. Upon a finding by the commissioner that the wages

1 or fringe benefits should be paid to the complainant, the
2 commissioner shall notify the registrar of the findings. The
3 registrar shall not make payment from the deposit on the basis of
4 findings by the commissioner for a period of 10 days following
5 determination of the findings. If, within the period, the
6 complainant or the contractor files written notice with the registrar
7 and the commissioner of an intention to seek judicial review of the
8 findings pursuant to Section 11523 of the Government Code, the
9 registrar shall not make payment, if an action is actually filed,
10 except as determined by the court. If, thereafter, no action is filed
11 within 60 days following determination of findings by the
12 commissioner, the registrar shall make payment from the deposit
13 to the complainant.

14 (f) Any action, other than an action to recover wages or fringe
15 benefits, against a deposit given in lieu of a contractor's bond or
16 bond of a qualifying individual filed by an active licensee shall be
17 brought within three years after the expiration of the license period
18 during which the act or omission occurred, or within three years
19 after the date the license was inactivated, canceled, or revoked by
20 the board, whichever first occurs. Any action, other than an action
21 to recover wages or fringe benefits, against a deposit given in lieu
22 of a disciplinary bond filed by an active licensee pursuant to
23 Section 7071.8 shall be brought within three years after the
24 expiration of the license period during which the act or omission
25 occurred, or within three years of the date the license of the active
26 licensee was inactivated, canceled, or revoked by the board, or
27 within three years after the last date for which a deposit given in
28 lieu of a disciplinary bond filed pursuant to Section 7071.8 was
29 required, whichever date is first. If the board is notified of a
30 complaint relative to a claim against the deposit, the deposit shall
31 not be released until the complaint has been adjudicated.

32 ~~SEC. 10.~~

33 *SEC. 9.* Section 7074 of the Business and Professions Code is
34 amended to read:

35 7074. Except as otherwise provided by this section, an
36 application for an original license, for an additional classification
37 or for a change of qualifier shall become void when:

38 (a) The applicant or examinee for the applicant has failed to
39 appear for the scheduled qualifying examination and fails to
40 request and pay the fee for rescheduling within 90 days of

notification of failure to appear, or, after being rescheduled, has failed to appear for a second examination.

(b) The applicant or the examinee for the applicant has failed to achieve a passing grade in the scheduled qualifying examination, and fails to request and pay the fee for rescheduling within 90 days of notification of failure to pass the examination.

(c) The applicant or the examinee for the applicant has failed to achieve a passing grade in the qualifying examination within 18 months after the application has been deemed acceptable by the board.

(d) The applicant for an original license, after having been notified to do so, fails to pay the initial license fee within 90 days from the date of ~~such~~ the notice.

(e) The applicant, after having been notified to do so, fails to file within 90 days from the date of the notice any bond or cash deposit or other documents that may be required for issuance or granting pursuant to this chapter.

(f) After filing, the applicant withdraws the application.

(g) The applicant fails to return the application rejected by the board for insufficiency or incompleteness within 90 days from the date of original notice or rejection.

(h) The application is denied after disciplinary proceedings conducted in accordance with the provisions of this code. The void date on an application may be extended up to 90 days or one examination may be rescheduled without a fee upon documented evidence by the applicant that the failure to complete the application process or to appear for an examination was due to a medical emergency or other circumstance beyond the control of the applicant.

An application voided pursuant to the provisions of this section shall remain in the possession of the registrar for ~~such~~ the period as he or she deems necessary and shall not be returned to the applicant. Any reapplication for a license shall be accompanied by the fee fixed by this chapter.

~~SEC. 11.~~

SEC. 10. Section 7091 of the Business and Professions Code is amended to read:

7091. (a) A complaint against a licensee alleging commission of any patent acts or omissions that may be grounds for legal action shall be filed in writing with the registrar within

1 four years after the act or omission alleged as the ground for the
2 disciplinary action. An accusation or citation against a licensee
3 shall be filed within four years after the patent act or omission
4 alleged as the ground for disciplinary action or within 18 months
5 from the date of the filing of the complaint with the registrar,
6 whichever is later, except that with respect to an accusation
7 alleging a violation of Section 7112, the accusation may be filed
8 within two years after the discovery by the registrar or by the board
9 of the alleged facts constituting the fraud or misrepresentation
10 prohibited by the section.

11 (b) A complaint against a licensee alleging commission of any
12 latent acts or omissions that may be grounds for legal action
13 pursuant to subdivision (a) of Section 7109 regarding structural
14 defects, as defined by regulation, shall be filed in writing with the
15 registrar within 10 years after the act or omission alleged as the
16 ground for the disciplinary action. An accusation and citation
17 against a licensee shall be filed within 10 years after the latent act
18 or omission alleged as the ground for disciplinary action or within
19 18 months from the date of the filing of the complaint with the
20 registrar, whichever is later, except that with respect to an
21 accusation alleging a violation of Section 7112, the accusation
22 may be filed within two years after the discovery by the registrar
23 or by the board of the alleged facts constituting the fraud or
24 misrepresentation prohibited by Section 7112. As used in this
25 section “latent act or omission” means an act or omission that is
26 not apparent by reasonable inspection.

27 (c) An accusation regarding an alleged breach of an express,
28 written warranty for a period in excess of the time periods
29 specified in subdivisions (a) and (b) issued by the contractor shall
30 be filed within the duration of that warranty.

31 (d) The proceedings under this article shall be conducted in
32 accordance with the provisions of Chapter 5 (commencing with
33 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
34 Code, and the registrar shall have all the powers granted therein.

35 (e) Nothing in this section shall be construed to affect the
36 liability of a surety or the period of limitations prescribed by law
37 for the commencement of actions against a surety or cash deposit.

38 ~~SEC. 12.~~

39 *SEC. 11.* Section 7112 of the Business and Professions Code
40 is amended to read:

1 7112. Omission or misrepresentation of a material fact by an
2 applicant or a licensee in obtaining, or renewing a license, or in
3 adding a classification to an existing license constitutes a cause for
4 disciplinary action.

5 ~~SEC. 13.~~

6 *SEC. 12.* Section 7112.1 is added to the Business and
7 Professions Code, to read:

8 7112.1. Any classification that has been added to an existing
9 license record as a result of an applicant or licensee omitting or
10 misrepresenting a material fact shall be expunged from the license
11 record pursuant to a final order of the registrar evidencing a
12 violation of Section 7112.

13 ~~SEC. 14.~~

14 *SEC. 13.* Section 7135.2 is added to the Business and
15 Professions Code, to read:

16 7135.2. All civil penalties assessed pursuant to issuance of a
17 citation for a violation of Section 7027.3 or for a violation of the
18 provisions of Section 7028.7 by a salesperson, shall be paid to the
19 board for deposit into a separate account within the Contractors'
20 License Fund. The funds in that account shall be available for
21 expenditure by the board for the purposes of this chapter upon
22 appropriation by the Legislature.

23 *SEC. 14.* Section 7153 of the Business and Professions Code
24 is amended to read:

25 7153. (a) It is a misdemeanor for any person to engage in the
26 occupation of salesperson for one or more home improvement
27 contractors within this state without having a registration issued by
28 the registrar for each of the home improvement contractors by
29 whom he or she is employed as a home improvement salesperson.
30 If, upon investigation, the registrar has probable cause to believe
31 that a salesperson is in violation of this section, the registrar may
32 issue a citation pursuant to Section 7028.7.

33 It is a misdemeanor for any person to engage in the occupation
34 of salesperson of home improvement goods or services within this
35 state without having a registration issued by the registrar.

36 (b) Any security interest taken by a contractor; to secure any
37 payment for the performance of any act or conduct described in
38 Section 7151 that occurs on or after January 1, 1995, is
39 unenforceable if the person soliciting the act or contract was not
40 a duly registered salesperson or was not exempt from registration

1 pursuant to Section 7152 at the time the homeowner signs the
2 home improvement contract solicited by the salesperson.

3 SEC. 15. Section 17910.5 of the Business and Professions
4 Code is amended to read:

5 17910.5. (a) No person shall adopt any fictitious business
6 name which includes “Corporation,” “Corp.,” “Incorporated,”
7 or “Inc.” unless that person is a corporation organized pursuant to
8 the laws of this state or some other jurisdiction.

9 (b) No person shall adopt any fictitious business name that
10 includes “Limited Liability Company” or “LLC” or “LC”
11 unless that person is a limited liability company organized
12 pursuant to the laws of this state or some other jurisdiction. A
13 person is not prohibited from using the complete words “Limited”
14 or “Company” or their abbreviations in the person’s business
15 name as long as that use does not imply that the person is a limited
16 liability company.

17 (c) A county clerk shall not accept a fictitious business name
18 statement which would be in violation of this section.

19 SEC. 16. Section 17913 of the Business and Professions Code
20 is amended to read:

21 17913. (a) The fictitious business name statement shall
22 contain all of the information required by this subdivision and shall
23 be substantially in the following form:

24
25 FICTITIOUS BUSINESS NAME STATEMENT

26 The following person (persons) is (are) doing business as

27 * _____

28 at **

29 *** _____

30 _____

31 _____

32 _____

33 This business is conducted by **** _____

34 The registrant commenced to transact business under the fictitious busi-
35 ness name or names listed above on

36 ***** _____



1 I declare under penalty of perjury under the laws of the State of California
2 that all information in this statement is true and correct.

3 Signed _____

4 Statement filed with the County Clerk of ____ County on ____

5
6 NOTICE—THIS FICTITIOUS NAME STATEMENT EXPIRES
7 FIVE YEARS FROM THE DATE IT WAS FILED IN THE
8 OFFICE OF THE COUNTY CLERK. A NEW FICTITIOUS
9 BUSINESS NAME STATEMENT MUST BE FILED BEFORE
10 THAT TIME.

11 THE FILING OF THIS STATEMENT DOES NOT OF ITSELF
12 AUTHORIZE THE USE IN THIS STATE OF A FICTITIOUS
13 BUSINESS NAME IN VIOLATION OF THE RIGHTS OF
14 ANOTHER UNDER FEDERAL, STATE, OR COMMON LAW
15 (SEE SECTION 14411 ET SEQ., BUSINESS AND
16 PROFESSIONS CODE).

17
18 (b) The statement shall contain the following information set
19 forth in the manner indicated in the form provided by subdivision

20 (a):

21 (1) Where the asterisk (*) appears in the form, insert the
22 fictitious business name or names. Only those businesses operated
23 at the same address may be listed on one statement.

24 (2) Where the two asterisks (**) appear in the form: If the
25 registrant has a place of business in this state, insert the street
26 address of his or her principal place of business in this state. If the
27 registrant has no place of business in this state, insert the street
28 address of his or her principal place of business outside this state.

29 (3) Where the three asterisks (***) appear in the form: If the
30 registrant is an individual, insert his or her full name and residence
31 address. If the registrant is a partnership or other association of
32 persons, insert the full name and residence address of each general
33 partner. If the registrant is a limited liability company, insert the
34 name of the limited liability company as set out in its articles of
35 organization and the state of organization. If the registrant is a
36 business trust, insert the full name and address of each trustee. If
37 the registrant is a corporation, insert the name of the corporation
38 as set out in its articles of incorporation and the state of
39 incorporation.

(4) Where the four asterisks (****) appear in the form, insert whichever of the following best describes the nature of the business: (i) “an individual,” (ii) “a general partnership,” (iii) “a limited partnership,” (iv) “a limited liability company,” (v) “an unincorporated association other than a partnership,” (vi) “a corporation,” (vii) “a business trust,” (viii) “copartners,” (ix) “husband and wife,” (x) “joint venture,” or (xi) “other—please specify.”

(5) Where the five asterisks (*****) appear in the form, insert the date on which the registrant first commenced to transact business under the fictitious business name or names listed, if already transacting business under that name or names. If the registrant has not yet commenced to transact business under the fictitious business name or names listed, insert the statement, “Not applicable.”

SEC. 17. Section 17917 of the Business and Professions Code is amended to read:

17917. (a) Within 30 days after a fictitious business name statement has been filed pursuant to this chapter, the registrant shall cause a statement in the form prescribed by subdivision (a) of Section 17913 to be published pursuant to Government Code Section 6064 in a newspaper of general circulation in the county in which the principal place of business of the registrant is located or, if there is no such newspaper in that county, then in a newspaper of general circulation in an adjoining county. If the registrant does not have a place of business in this state, the notice shall be published in a newspaper of general circulation in Sacramento County.

(b) Subject to the requirements of subdivision (a), the newspaper selected for the publication of the statement should be one that circulates in the area where the business is to be conducted.

(c) If a refiling is required because the prior statement has expired, the refiling need not be published unless there has been a change in the information required in the expired statement, provided the refiling is filed within 40 days of the date the statement expired.

(d) An affidavit showing the publication of the statement shall be filed with the county clerk within 30 days after the completion of the publication.

1 SEC. 18. Section 17923 of the Business and Professions Code
2 is amended to read:

3 17923. (a) Any person who is a general partner in a
4 partnership that is or has been regularly transacting business in a
5 fictitious business name may, upon withdrawing as a general
6 partner, file a statement of withdrawal from partnership operating
7 under fictitious business name. The statement shall be executed by
8 the person filing the statement in the same manner as a fictitious
9 business name statement and shall be filed with the county clerk
10 of the county where the partnership filed its fictitious business
11 name statement.

12 (b) The statement shall include:

13 (1) The fictitious business name of the partnership.

14 (2) The date on which the fictitious business name statement
15 for the partnership was filed and the county where filed.

16 (3) The street address of its principal place of business in this
17 state or, if it has no place of business in this state, the street address
18 of its principal place of business outside this state, if any.

19 (4) The full name and residence of the person withdrawing as
20 a partner.

21 (c) The statement of withdrawal from partnership operating
22 under a fictitious business name shall be published in the same
23 manner as the fictitious business name statement and an affidavit
24 showing the publication of the statement shall be filed with the
25 county clerk after the completion of the publication.

26 (d) The withdrawal of a general partner does not cause a
27 fictitious business name statement to expire if the withdrawing
28 partner files a statement of withdrawal in accordance with
29 subdivisions (a) and (b) and the requirement of subdivision (c) is
30 satisfied.

31 SEC. 19. Section 22355 of the Business and Professions Code
32 is amended to read:

33 22355. (a) The county clerk shall maintain a register of
34 process servers and assign a number and issue an identification
35 card to each process server. The county clerk shall issue a
36 temporary identification card to applicants who are required to
37 submit fingerprint cards for background checks to the Federal
38 Bureau of Investigation and the Department of Justice. This card
39 shall be valid for 120 days. If clearance is received from the
40 Federal Bureau of Investigation and the Department of Justice

1 within 120 days, the county clerk shall immediately issue a
2 permanent identification card to the applicant. Upon renewal of a
3 certificate of registration, the same number shall be assigned,
4 provided there is no lapse in the period of registration.

5 (b) The temporary and permanent identification cards shall be
6 $3\frac{3}{8}$ inches by $2\frac{1}{4}$ inches and shall contain at the top the title,
7 “Registered Process Server,” followed by the registrant’s name,
8 address, registration number, date of expiration, and county of
9 registration. In the case of a natural person, it shall also contain a
10 photograph of the registrant in the lower left corner.

11 SEC. 20. Section 22453.1 of the Business and Professions
12 Code is amended to read:

13 22453.1. Notwithstanding Section 22453, any person
14 registered pursuant to Chapter 16 (commencing with Section
15 22350) shall pay a fee of one hundred dollars (\$100) instead of the
16 fee of one hundred seventy-five dollars (\$175) otherwise required
17 by Section 22453.

18 SEC. 21. No reimbursement is required by this act pursuant
19 to Section 6 of Article XIII B of the California Constitution for
20 certain costs that may be incurred by a local agency or school
21 district because in that regard this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section 17556 of
24 the Government Code, or changes the definition of a crime within
25 the meaning of Section 6 of Article XIII B of the California
26 Constitution.

27 However, notwithstanding Section 17610 of the Government
28 Code, if the Commission on State Mandates determines that this
29 act contains other costs mandated by the state, reimbursement to
30 local agencies and school districts for those costs shall be made
31 pursuant to Part 7 (commencing with Section 17500) of Division
32 4 of Title 2 of the Government Code. If the statewide cost of the
33 claim for reimbursement does not exceed one million dollars
34 (\$1,000,000), reimbursement shall be made from the State
35 Mandates Claims Fund.